

b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal but may raise only claims that:

(1) the defendant's sentence on any count of conviction exceeds the statutory maximum for that count of conviction;

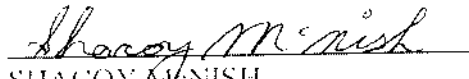
(2) the sentencing judge erroneously departed upward pursuant to the Sentencing Guidelines; and/or

(3) the sentencing judge, exercising the Court's discretion pursuant to United States v. Booker, 543 U.S. 220 (2005), imposed an unreasonable sentence above the final Sentencing Guideline range determined by the Court.

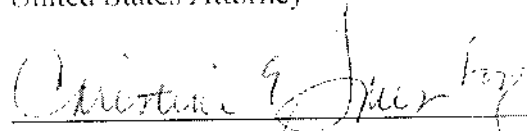
If the defendant does appeal pursuant to this paragraph, no issue may be presented by the defendant on appeal other than those described in this paragraph.

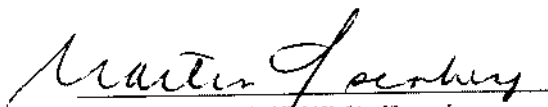
3. It is agreed that the parties' agreement contains no additional promises, agreements, or understandings other than those set forth in this written agreement, and that no


additional promises, agreements, or understandings will be entered into unless in writing and signed by all parties.


SHACOY MCNISH
Defendant

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Date: 7/13/11